

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

In re LIPITOR ANTITRUST LITIGATION

Civil Action No. 3:12-cv-02389 (PGS)

This Document Relates To:

**ORDER**

RP Healthcare, Inc. v. Pfizer, Inc.  
3:12-cv-5129

THIS MATTER has been opened before the Court on motions filed by defendants Ranbaxy, Ranbaxy Laboratories Limited, and Ranbaxy Pharmaceuticals Inc., for an Order pursuant to Fed. R. Civ. P. 12 [ECF No. 290], and defendants Pfizer Inc., Pfizer Ireland Pharmaceuticals, Warner-Lambert Co., and Warner-Lambert Company, LLC, for an Order pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) [ECF No. 288] to dismiss the First Amended Complaint of Plaintiffs, RP Healthcare, Inc, Chimes Pharmacy, Inc, James Clayworth, R. Ph. d/b/a Clayworth Pharmacy, Marin Apothecaries, Inc. d/b/a Ross Valley Pharmacy, Golden Gate Pharmacy Services, Inc., d/b/a Golden Gate Pharmacy, Pediatric Care Pharmacy, Inc., Meyers Pharmacy, Inc., Tony Mvarantonis, R. Ph. d/b/a Jack's Drugs, and Tilley Apothecaries, Inc. d/b/a Zweber's Apothecary ("the RP Healthcare Plaintiffs"). The Court has considered the papers and arguments submitted by the parties.

In a prior memorandum [ECF No. 566], the Court dismissed the Complaint of the direct purchasers for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6), and the Court requested further briefing by the parties on the memorandum in this case.

The Court finds that in RP Healthcare's complaint, the Plaintiffs did not calculate the reasonable valuation of the Pfizer/Ranbaxy alleged reverse payment. Instead, RP Healthcare relied on one or two statements by Pfizer's executives regarding the facts underlying their cause of action. In the Memorandum, the Court indicated that these facts were insufficient to plausibly show a claim. As such, RP Healthcare's complaint and its attempt to prove its *per se* market allocation theory under California law are implausible in light of the Court's prior ruling.

IT IS on this 5th day of November, 2014,

ORDERED that the Motion of Defendants Ranbaxy, Ranbaxy Laboratories Limited, and Ranbaxy Pharmaceuticals Inc. is GRANTED as to the RP Healthcare Plaintiffs; and it is further

ORDERED that the Motion of Defendants Pfizer Inc., Pfizer Ireland Pharmaceuticals, Warner-Lambert Co., and Warner-Lambert Company, LLC, for an Order pursuant to Fed. R. Civ. P. 12(b)(6) is GRANTED as to the RP Healthcare Plaintiffs; and it is further

ORDERED that the First Amended Complaint of plaintiff the RP Healthcare Plaintiffs [ECF No. 262] be and is hereby DISMISSED WITH PREJUDICE.

Dated: November 5, 2014

  
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PETER G. SHERIDAN, U.S.D.J